THE HON'BLE MR JUSTICE A.GOPAL REDDY

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W. P. No. 22373/1994

Dt. 2-3-2006

1. Padala Babu Rao and others ..Petitioners

V.

1. The Agent to Government, Kakinada, E.G.District

and others. ..Respondents

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W. P. No. 22373/1994

ORAL ORDER:

The first petitioner and the father of 2nd and 3rd petitioners purchased Ac.2-16 cents of land in S.No.35/2 of Yellavaram village, Addateegala Mandal of East Godavari District under a registered sale deed dt. 11-4-1962 from Sampathi Pothuraju and Sampathi Upmaka. While so, a complaint has been lodged by the third respondent against the petitioners herein under Section 3 of A.P. (Scheduled Area) Land Transfer Regulations, 1959 (1/1959) (for short "the Regulations") as amended by A.P. Scheduled Area Land Transfer (Amendment) Regulation, 1970. The second respondent by his order dt. 31-7-1989 passed ejectment decree against the petitioners directing restoration of land to the Government, observing that the transaction between the petitioners and the vendor is illegal and violative of Section 3(1) of the Regulations. Aggrieved by the said orders, the petitioners carried the matter in appeal before the first respondent in CMA No.64/89. The first respondent by the impugned orders dt. 18-10-1994 dismissed the appeal confirming the orders passed by the second respondent. Questioning the correctness of the same, the present writ petition is filed.

Learned counsel for the petitioners submits that the A.P. (Scheduled Area) Land Transfer Regulations, 1959 as amended by Act 1/1970 are not retrospective in operation and since the sale deed is of the year 1962 and even in between non-tribals, the same cannot be held in contravention of Section 3 in view of the law declared by this court in G. NARSA REDDY V. COLLECLTOR, ADILABAD DISTRICT.

The Supreme Court in DEPUTY COLLECTOR V. VENKATA RAMANAIAH held that the amendment to the regulations is only prospective in operation and will not bind the sale deeds which were executed prior to the amendment of the regulations.

In view of the same, as there is no ban prior to the amendment of the regulations about transfer of land in the scheduled areas in between non-tribals, ejectment order passed by the second respondent as confirmed by the first respondent is not sustainable and the same is accordingly set-aside.

The writ petition is accordingly allowed. No costs.

2-3-2006

KMR